

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: NATIONAL PRESCRIPTION OPIATE LITIGATION)
MDL No. 2804
Case Nos. 1:17-md-2804
1:18-op-45817
THIS DOCUMENT RELATES TO:)
Judge Dan Aaron Polster
Track 8: Cobb County, Georgia)

**DECLARATION OF CHRISTOPHER HEWELL IN SUPPORT OF PUBLIX SUPER
MARKETS, INC.'S OPPOSITION TO PLAINTIFF'S MOTION FOR PARTIAL
SUMMARY JUDGMENT**

I, Christopher Hewell, pursuant to Federal Rule of Civil Procedure 56(c)(4), declare:

1. My name is Christopher Hewell, Director of Managed Care (previously Director of Procurement and Customer Experience) of Publix Super Markets, Inc. I am over 18 years of age. I am of sound mind and based on my personal knowledge, if called as a witness, I could and would competently testify to the statements in this declaration.
2. In October 2014, the DEA relisted hydrocodone combination products as Schedule II drugs.
3. At all times prior to and as of the time of this relisting in 2014, Publix did not warehouse or distribute any Schedule II controlled substances, including hydrocodone products.
4. Publix subsequently began work to open a new warehouse which would handle Schedule II controlled substances, in addition to Schedules III – V, and would include the additional security measures necessary to receive DEA approval to warehouse Schedule II drugs.
5. Publix's new warehouse opened in October 2016, at which time Publix started the process of warehousing Schedule II drugs (e.g., oxycodone) for the first time.

6. When Publix began distributing Schedule III – V drugs in 2005, it used an internally designed technology component called Publix Inventory Management System (“PIMS”) to identify and block the amount of any order that exceeded established thresholds. .

7. Like the prior iteration, the PIMS system in place in 2012 through 2016 would automatically omit the entirety of any line item(s) in an order that exceeded established thresholds (i.e., the flagged line item(s) would not be fulfilled).

8. Orders can contain multiple different line items for different drugs. Schedule II orders can contain multiple line items for other Schedule II drugs. Schedule III – V drugs can be ordered in combination with each other and non-controlled drugs.

9. Over the course of the entire 2005–2016 period, Publix discovered no suspicious orders among its flagged item orders, and therefore did not report any as suspicious to DEA.

10. In 2016, in conjunction with the opening of its new warehouse that warehoused Schedule II drugs for the first time, Publix contracted with a third-party vendor, E-Supply Link, to replace PIMS with a new SOM software called “SOMLink.”

11. The E-Supply Link technology analyzed each order received by Publix’s warehouse, and any items it flagged were subjected to additional layers of control and review. In particular, E-Supply Link would automatically cut any flagged item within an order—which meant no flagged items were ever shipped from Publix’s warehouse. E-Supply Link also provided greater functionality than PIMS, including over 15 different types of tests or algorithms that could be applied to detect potentially suspicious orders.

12. Further, flagged items were recorded in E-Supply Link and emailed to Pharmacy Supervisors for review.

13. If a Supervisor identified a flagged item as suspicious, the Supervisor was required to notify his or her Pharmacy Operations Manager (“POM”) and me pursuant to our Anti-Diversion Processes for confirmation and reporting to the DEA.

14. Publix reviewed and reported to the DEA all orders that Publix determined were suspicious orders.

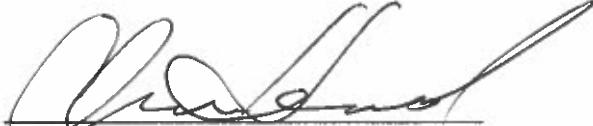
15. The E-Supply Link application did not work in that it was overly sensitive and in addition to identifying items of interest, also flagged many excessive false positives. Because E-Supply Link was unwilling to work with Publix to edit its program and reduce the excessive false positives, Publix ultimately decided to replace it with a different order monitoring software. From 2018 through 2020, Publix transitioned from E-Supply Link to a custom SOM software developed by OrderInsite for Publix. Because the OrderInsite system was tailor-made for Publix, it took time to develop and implement.

16. OrderInsite’s SOM software became operational at Publix in 2020, and Publix continues to use that software as part of its multi-tiered SOM system today. Since launching OrderInsite, Publix has continued to report all suspicious orders to DEA.

17. Publix used centralized CSOS Administrators to sign all CII Orders for Publix Pharmacies. The CSOS Administrators were tasked with reviewing all CII orders for reasonableness prior to signing them. When CII orders were placed significantly above a store’s prior usage levels, the CSOS administrator consulted internal data such as dispensing history, current inventory, and prescription hard copies to determine if the quantity ordered was too high.

I hereby declare that the above statement is true to the best of my knowledge and belief and that I understand it is made for use as evidence in court and is subject to the penalty of perjury.

August 9, 2024



Christopher Hewell